

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF PENNSYLVANIA

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4 DEBORA NOVAKOWSKI,)
5 Plaintiff,)
6 vs.) Civil Action
7 ELAINE CHAO, SECRETARY, AND THE) No. 04-356E
8 UNITED STATES DEPARTMENT OF LABOR,)
9 Defendant.)

10 - - -
11 Deposition of JOHN STRANAHAN

12 Friday, January 27, 2006

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14 The deposition of JOHN STRANAHAN, called as a
15 witness by the Plaintiff, pursuant to notice and the
16 Federal Rules of Civil Procedure pertaining to the
17 taking of depositions, taken before me, the
18 undersigned, Melissa L. Fenster, a Notary Public in
19 and for the Commonwealth of Pennsylvania, at 17 South
20 Park Row, Room A330, Erie, Pennsylvania 16501,
21 commencing at 10:26 o'clock a.m., the day and date
22 above set forth.

23 - - -

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28 ORIGINAL
29

1 questions since they're subsequent to the
2 selection.

3 Q Okay.

4 Were any of those GS-13s in the Erie office
5 selected subsequent to May of 2001?

6 A No.

7 Q Or prior to that, except Chimelewski?

8 A They were all prior to that.

9 Q Is there a sexual harassment policy in
10 effect at OSHA?

11 A I'm sure there is.

12 Q Have you ever seen it?

13 MR. SKIRTICH: Again, for the record,
14 when?

15 MR. LINKOSKY: Well, all right. We'll
16 just --

17 MR. SKIRTICH: I mean for timing for the
18 record, I think that's pertinent.

19 MR. LINKOSKY: I appreciate that, Paul,
20 yeah.

21 Q During the period of time relevant to this
22 case, was there a sexual harassment policy in effect
23 in OSHA?

24 A I think it's department wide.

25 Q Have you ever seen it?

1 A I've seen brochures about it. If you're
2 asking have I seen a statute or a regulation or
3 anything like that, no, but I've seen brochures in
4 training about it.

5 Q Have you seen anything regarding sexual
6 harassment that would be in any way comparable to
7 Exhibit No. 3, which is a recitation of a policy and
8 procedure?

9 Take a look at Exhibit No. 3. I mean, did
10 you see anything like that?

11 A No.

12 Q Okay.

13 How would you find out what your role would
14 be in enforcing the sexual harassment policy?

15 A Probably through pamphlets or brochures, or
16 I'm sure we've had different training sessions about
17 it.

18 Q When was the last training session that you
19 recall that you had regarding sexual harassment during
20 the period that we are talking about here? I'm not
21 asking you questions after May of 2001.

22 A Prior to May 2001?

23 Q Yes.

24 A I can't -- I don't know.

25 Q Okay.

1 Do you recall any instruction regarding the
2 policy that you were to investigate? As the area
3 director, you would investigate incidents that could
4 or did cause a sexually hostile environment in the
5 office?

6 A That would be my responsibility.

7 Q Now, did anybody else in the office have
8 that responsibility?

9 A I believe the supervisors would have a role
10 in that.

11 Q Would it be your ultimate responsibility to
12 make any determinations or investigations?

13 A I would have reporting requirements.

14 Q To whom?

15 A I think there's -- I report those things to
16 a coordinator someplace.

17 Q Do you mean a regional office?

18 A It might be the EEOC. I don't know.

19 Q Let's go back and see if we can get some
20 details about that. If you were confronted with some
21 sexual harassment or a sexually potentially sexual --
22 strike that.

23 If you were confronted with an incident of
24 sexual harassment or incident or incidents which might
25 cause a sexually hostile atmosphere, did you have a

1 reporting requirement to report them to someone?

2 A I think if a complaint is raised to me.

3 Q Okay.

4 Is it your position that the only time you
5 had an obligation to deal with sexual harassment or
6 incidents which may cause a sexually hostile
7 atmosphere is when somebody made a complaint?

8 A Unless I witnessed it, and it crossed the
9 threshold of what I would understand to be a condition
10 that creates a hostile work environment.

11 Q Once that occurred, what were you to do?

12 A I would probably try to intervene.

13 Q Had you ever intervened?

14 MR. SKIRTICH: Again, I think for purposes
15 of the record, when time wise?

16 MR. LINKOSKY: I thought we had established
17 that. We're talking about the period relevant to
18 this.

19 MR. SKIRTICH: Fair enough.

20 The question is have you ever intervened
21 prior to the job --

22 Q You said, Mr. Stranahan --

23 A On a sexual harassment?

24 Q Or a sexually hostile issue.

25 A I don't think there was an occasion to.

1 Q Does that mean in your personal judgment
2 you didn't think there was an occasion to?

3 A Correct.

4 Q So the answer is no?

5 A Correct.

6 Q And is that judgment made within your
7 knowledge of the sexual harassment policy?

8 A I'm a little confused as to whether or not
9 you're getting at a situation that involved a conduct
10 issue in my office that I know you're aware of. If
11 you're referring to that, yes, I did intervene.

12 Q Actually, I wasn't referring to that yet.

13 A Okay.

14 Q I was just asking -- what I'm trying to get
15 at, Mr. Stranahan, is your understanding of a couple
16 different things.

17 What was the policy, and what was your
18 reaction to incidents that you saw fell within the
19 policy, and how did you know they fell within the
20 policy? That's what I'm trying to get at. I may not
21 be very efficient at it, but that's what I'm trying to
22 get at.

23 A Well, during the time in question, I don't
24 think there was a sexual harassment incident that
25 required an intervention.

1 Q Okay.

2 And is that determination principally based
3 on the idea that you didn't get a formal complaint?
4 Is that right?

5 A In part.

6 Q In part, and what else other than it?

7 A In that I didn't witness anything so overt
8 or out of the social norms of the office that would
9 rise to that level.

10 Q But the question that keeps coming to my
11 mind, Mr. Stranahan, is how did you know to set that
12 level, that determination, how did you know that?

13 A I would say that I did not believe an
14 environment existed so as to make anyone in my office
15 uncomfortable with the social norms that existed
16 there.

17 Q Did you ever make any inquiry or ask for
18 the policy in order to assist you with making that
19 determination, that is whether your view of that
20 situation, those situations was consistent with the
21 DLO policy?

22 Did you ever do that?

23 A Did I ever ask anyone to send me a policy,
24 no.

25 Q Or make any effort to find out if your view

1 of the incidents were consistent with the DLO policy?

2 A I base it on what I understand to have
3 received in my training. Like unwanted and repetitive
4 advances, I would know that, but that did not occur;
5 or unwanted touching or anything of that nature, I
6 don't believe they occurred.

7 Q Now, are there any other circumstances
8 which you believe would reach the level which would
9 require your intervention than you've just mentioned,
10 or is that a complete list?

11 A Those two examples, is that my complete
12 list?

13 Q Yes.

14 A Those are examples. I'm sure it's not a
15 complete list.

16 Q How about filling out the list for me as
17 far as you understand it to be? What I'm trying to
18 get at, Mr. Stranahan, is what you consider to be
19 sufficient to require your intervention. Now, you've
20 mentioned two kinds of incidents.

21 What else is there to require your
22 intervention?

23 A Under the umbrella of it being offensive to
24 somebody.

25 Q Did you ever look at any incidents and

1 anticipate whether they may or may not have been
2 offensive to people?

3 A Well, I guess I would have to rely on
4 people letting me know that they were offensive.

5 Q So unless you got a complaint, somebody
6 said I'm offended by this, then you didn't feel it was
7 your obligation to intervene?

8 A Unless someone raised something to my
9 attention or complained, I would not feel it necessary
10 to intervene.

11 Q I think that answers the question.

12 Now, this is an incident -- I think you are
13 probably anticipating the stuff we already know about
14 and talked about before -- where a male in your office
15 was accused of exposing himself to cleaning women.

16 Do you recall that?

17 A Yes.

18 Q Did you investigate that?

19 A Yes.

20 Q Did you interview the cleaning ladies?

21 A No.

22 Q Who did you interview?

23 A I interviewed the person who was --

24 MR. SKIRTICH: You could use the word
25 offender for purposes of this.

1 A I interviewed the person who was alleged to
2 have done it.

3 Q But you didn't ask the cleaning ladies
4 about it?

5 A I didn't know who the cleaning ladies were.

6 Q Did you speak to their supervisor?

7 A No.

8 Q Did you get an explanation from the alleged
9 offender?

10 A Yes.

11 Q Did you accept that explanation?

12 A It seemed quite plausible.

13 Q Now, do you recall --

14 MR. SKIRTICH: Hold on a second. For
15 purposes of the record, time wise when was this?

16 MR. LINKOSKY: I thought that, first of
17 all, this is my deposition.

18 MR. SKIRTICH: I understand, but for
19 purposes --

20 MR. LINKOSKY: And, you know, I don't think
21 at this stage in the game that's a proper
22 question for him.

23 MR. SKIRTICH: Well, I do, and I'll object.
24 When was this? Was this before May of 2001?

25 MR. LINKOSKY: It occurred before. Don't

1 forget we have established -- I'm not going to ask
2 any of this stuff that occurred after May of
3 2001.

4 MR. SKIRTICH: All right.

5 MR. LINKOSKY: There is something that I
6 might ask him, but all of this is before May of
7 2001.

8 MR. SKIRTICH: Thank you.

9 Q Now, do you recall in our private session
10 of this kind where we talked about Mr. Chimelewski
11 making a sexist remark about a female in the presence
12 of an employer?

13 A I think I responded to that in my
14 affidavit.

15 Q But you do recall that?

16 A Yes.

17 Q We talked about that, right?

18 MR. SKIRTICH: When was this now?

19 MR. LINKOSKY: Prior to May of 2001.

20 Q Did you investigate that allegation?

21 A If it's the -- if you're referring to when
22 Mr. Chimelewski -- part of his duties would be to
23 train new employees, one of which was a female around
24 1991 or so. I got wind of that, but not by the female
25 employee.

1 MR. SKIRTICH: For purposes of the record,
2 put her name on the record or else we're going to
3 have -- there's no way to track this.

4 MS. NOVAKOWSKI: Do you want her name at
5 the time? Teresa Sipple, S-I-P-P-L-E.

6 MR. SKIRTICH: Thank you.

7 Q So you found out about it through some
8 other means.

9 How?

10 A Probably through the complainant.

11 Q And you're speaking of Ms. Novakowski?

12 A Ms. Novakowski.

13 Q She brought that to your attention?

14 A I don't think it was a situation where she
15 came in to say I got this complaint. It was more
16 like, did you hear what Joe said or did?

17 Q But that brought it to your attention,
18 correct?

19 A She was -- Ms. Novakowski was the one who
20 informed me.

21 Q Yeah.

22 She brought it to your attention?

23 A Yeah.

24 Q What did you do about it?

25 A Based upon that, I did nothing about it.

1 Q Now, you're aware of this issue of at least
2 one employee in your office accessing pornography,
3 printing out pornography, things of that nature,
4 correct?

5 A Yes.

6 Q When did you first find out that that was
7 going on approximately?

8 A Well, it's a guess, but I'll say '95, 1995.

9 MR. SKIRTICH: I'm going to object to
10 relevance to the last question and any other
11 questions concerning this.

12 You have to answer for purposes of the
13 deposition. Go ahead.

14 MR. LINKOSKY: Do you want to clarify just
15 exactly what you mean by "this"?

16 MR. SKIRTICH: The question that you just
17 asked about accessing pornography. I am
18 objecting based on relevance to this lawsuit, so
19 the first question you asked concerning, I
20 object, and I will object to each and every time
21 for purposes of the record.

22 MR. LINKOSKY: Is that a general objection
23 regarding all these questions?

24 MR. SKIRTICH: It is, but I think for
25 purposes of deposition, I don't think courts

1 recognize general, so I just may have to say
2 object. Relevance.

3 But go ahead. You have to answer.

4 Q In 1995, right?

5 A I'm guessing.

6 Q What did you do about it is the obvious
7 next question?

8 A What incident are you referring to?

9 Q Well, the first time you found out that
10 someone in your office was accessing pornography?

11 A My recollection was that a pornographic
12 photocopy was found in our copy room.

13 Q And that was brought to your attention by
14 whom?

15 A I believe it was by Mr. Burbage, and I
16 believe it was brought to his attention by
17 Beverly Spare, and I'm not certain of that.

18 Q And is Mr. Burbage a supervisor in your
19 office?

20 A Yes.

21 Q And what did you do as a result of gaining
22 that information?

23 A I believe Barry and I confronted the person
24 that was suspected. There were no witnesses to this
25 other than finding the piece of paper. No one

1 actually saw him copying it, if he actually did, which
2 probably he did, and we counseled him.

3 Q Did he admit to doing it?

4 A I don't recall.

5 Q When you say "counsel," what do you mean by
6 that, Mr. Stranahan?

7 A We wanted to know if he did it, and that
8 that was a serious breach of conduct and that he
9 absolutely cannot use government computers to go to
10 such sites.

11 Q Did you report that to any superior of
12 yours or to your regional office?

13 A I don't think so.

14 Q Did you ask for any guidance relevant to
15 the policy? A woman saw a pornographic photograph,
16 brought it to the attention of a supervisor? Did you
17 go to anybody in personnel at the regional office and
18 say, okay. What do I do if there's a violation of the
19 policy?

20 MR. SKIRTICH: Objection. Relevance.

21 Go ahead.

22 A Inasmuch as there was question as to did
23 this person actually do it or not, we counseled, and I
24 did not go outside my office.

25 Q Okay.

1 Did you make any effort aside from
2 questioning this person as to find out whether or not
3 he actually did it?

4 MR. SKIRTICH: Objection. Relevance.

5 A I don't know how you would do that.

6 Q Okay.

7 Did you call anybody in to look at his
8 computer to see whether he did it?

9 A No.

10 Q Did you discipline him other than
11 counseling?

12 A No.

13 Q Did you ever send that individual to
14 counseling?

15 A Yes.

16 Q When did that occur?

17 MR. SKIRTICH: Again, all of these, I'm
18 objecting on relevance.

19 But go ahead.

20 A I believe that occurred after the first
21 instance, and I believe it occurred when Mr. Burbage
22 caught sight of something that was on his screen that
23 caused alarm to Barry.

24 Q Did women complain to you about seeing
25 things on that individual's computer screen that were

1 offensive?

2 A No.

3 Q So do I understand correctly Mr. Burbage
4 saw something else subsequent to the picture?

5 A Yes.

6 Q And you did what?

7 A Barry and I brought the individual into my
8 office; and in the strongest terms - see. We've had
9 a lot of training on this.

10 In fact, in another incident, I had to
11 provide documentation of all of this; and through
12 staff meetings and computer security training, he was
13 aware of all of that. And in the strongest terms, I
14 said simply this is not allowed; and if I catch you
15 again, I'm going to do what I can to see you're fired.

16 Q But you sent him for counseling?

17 A I believe we did.

18 Q Is there a program within the Department of
19 Labor called an employee assistance program where
20 employees having different kinds of problems can be
21 referred?

22 A Yes, and that's what happened in this case.

23 Q Did you follow up as to whether or not he
24 continued with the counseling?

25 A I know that he went.

1 Q How many times?

2 A I don't know.

3 Q Did you ever get complaints to the male
4 supervisor, Burbage, specifically who's abusive to
5 women, swore at them, treated them badly in the
6 office?

7 A No.

8 Q Were you aware of that kind of conduct?

9 A I don't think Mr. Burbage swears for one
10 thing.

11 Q Were you aware that Mr. Burbage was abusive
12 to women in the office?

13 MR. SKIRTICH: Objection. Relevance.

14 A I don't think Mr. Burbage is abusive to
15 women.

16 Q So regardless of his conduct, you didn't
17 think he was abusive.

18 Is that what you're telling me?

19 MR. SKIRTICH: Objection to the form of the
20 question. That's not what the witness testified
21 to.

22 Q What conduct of Mr. Burbage did you witness
23 that you would have to make that kind of a
24 determination as to whether it was abusive to women?

25 A What I think you're referring to is

1 Mr. Burbage being a supervisor; and, perhaps, somebody
2 doesn't like how they're being supervised or maybe
3 they don't like criticism about their case files or
4 maybe they don't like criticism about how they're
5 using their sick leave or annual leave.

6 That person might go and say Barry's
7 picking on me, picking on the person because the
8 person needs to do maybe a little bit better; and if
9 you're going to say that that is in the realm of
10 abuse, I disagree.

11 Q Okay. I'm not calling it abuse or not,
12 Mr. Stranahan. I'm only trying to get some answers to
13 questions here.

14 Did you observe the conduct of Mr. Burbage
15 in performing his supervisory duties?

16 A I observed that every day.

17 Q And did you observe regardless of his
18 intent that his manner could be construed as abusive
19 to women?

20 MR. SKIRTICH: Objection to the form of the
21 question. He has already answered this.

22 But go ahead and answer that again.

23 A I don't know whether I'm qualified to
24 interpret what someone's intent or interpretation of
25 intent is.

1 Q You just talked about his intent. You
2 talked about people and their performance, use of sick
3 leave and things of that nature. The question I'm
4 asking you is -- and I understand those are
5 supervisory functions.

6 The question I'm asking you is the manner
7 in which those functions were carried out. In your
8 opinion, could it be construed to be abusive to
9 females?

10 A And I would say no.

11 MR. LINKOSKY: Okay. Off the record.

12 (Discussion held off the record.)

13 Q There has been a recent investigation
14 within the last year or so of pornography in the Erie
15 office; isn't that correct?

16 MR. SKIRTICH: Objection. Relevance.

17 A Yes.

18 Q And I'm not going to mark this as an
19 exhibit, but I want to show you a letter, and I just
20 want to ask you if that's your signature.

21 MR. SKIRTICH: For purposes of the record,
22 let's identify it. Even though you're not going
23 to mark it, I think because I may object and
24 strike it later --

25 MR. LINKOSKY: I just want to know if

1 that's his signature first.

2 A Yes, that's my signature.

3 Q And it's addressed to an employee of your
4 office?

5 A That is correct.

6 Q And it's dated July 13, 2005?

7 A Yes, it is.

8 Q And it's on Department of Labor stationary,
9 and the subject is notice of proposed suspension?

10 A That is correct.

11 MR. LINKOSKY: Off the record.

12 (Discussion held off the record.)

13 Q Is the person to whom this is addressed an
14 employee of the Erie office?

15 A Correct.

16 Q Is this the same person who was involved in
17 the incident of allegedly exposing himself to the
18 cleaning ladies, the printout of the pornographic
19 picture and what Mr. Burbage witnessed on his computer
20 screen?

21 A Yes.

22 Q And according to this letter, his conduct
23 continued at least until April of 2005, correct?

24 A I believe so.

25 Q And beyond that date, correct?

1 MR. SKIRTICH: Again, objection.

2 MR. LINKOSKY: Okay.

3 Q Want to see it?

4 A I don't know what the dates are in there.
5 I know it's quite extensive.

6 Q Well, my question was did it go beyond
7 April of 2005?

8 A Yes.

9 Q Now, this letter refers to a policy
10 identified as 5-CFR 2635.704(a).

11 What is that policy?

12 A Where are you referring to?

13 Q Here (indicating).

14 MR. SKIRTICH: If you know.

15 Q If you know.

16 A It says he can't use government property
17 for unauthorized uses.

18 Q Okay.

19 Just as a matter of curiosity, that goes
20 beyond sexual use, right?

21 MR. SKIRTICH: Objection. Relevance.

22 A I suppose it does.

23 Q Now, did you ever learn during the course
24 of Mr. Watson's tenure that he was spending one to
25 two hours a day on the computer looking at

1 pornography?

2 MR. SKIRTICH: Objection. Relevance.

3 A Did I know he was doing that?

4 Q Yes.

5 A No, I did not.

6 Q Was that reflected in his performance?

7 MR. SKIRTICH: Objection. Relevance.

8 Q I mean this guy's spending up to 25 percent
9 of his time based on his own statement looking at
10 pornography on the computer, and I'm asking you did
11 that affect his performance as far as you saw?

12 I'm not saying you saw it. I'm saying this
13 guy's working four to six hours a day as opposed to
14 somebody working eight. That's what I'm talking
15 about.

16 Was that reflected in his performance?

17 MR. SKIRTICH: I'm going to object on
18 two bases; No. 1, that was about four questions;
19 No. 2, again, is relevance to this lawsuit.

20 Now, we're so far afield, we're getting
21 into discipline of another employee for
22 unauthorized use of government property if I
23 understand the line of questioning, so before you
24 answer anything, you have to get one question at
25 a time please.